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Jared R. Friedmann
Jacqueline Marcus
Jennifer Brooks Crozier

*Attorneys for Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
	:
In re	:
	:
SEARS HOLDINGS CORPORATION, et al.,	:
	:
Debtors.¹	:
	:
-----X	

Chapter 11
Case No. 18-23538 (RDD)
(Jointly Administered)

**SUPPLEMENTAL DECLARATION OF JENNIFER BROOKS CROZIER IN SUPPORT
OF DEBTORS' MOTION TO COMPEL TURNOVER OF ESTATE PROPERTY**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); SHC Licensed Business LLC (3718); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); SR – Rover de Puerto Rico, LLC (f/k/a Sears, Roebuck de Puerto Rico, Inc.) (3626); SYW Relay LLC (1870); Wally Labs LLC (None); SHC Promotions LLC (9626); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Rover Brands Business Unit, LLC (f/k/a Sears Brands Business Unit Corporation) (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); Sears Brands Management Corporation (5365); and SRe Holding Corporation (4816). The location of the Debtors' corporate headquarters is 130 W. 44nd St., 17th Fl., New York, NY 10036.

Pursuant to 28 U.S.C. § 1746, I, Jennifer Brooks Crozier, hereby declare and state as follows:

1. I am an Associate at Weil, Gotshal & Manges LLP (“**Weil**”) and counsel for the Debtors in the above-captioned proceeding.

2. I submit this Supplemental Declaration in support of the Reply in Further Support of the Motion of Debtors to Compel Turnover of Estate Property filed concurrently herewith.

3. Attached hereto as **Exhibit A** is a true and correct copy of an email chain dated from July 10, 2020 to July 29, 2020 between and among J. Friedmann of Weil and S. O’Neal of Clearly Gottlieb Steen & Hamilton LLP, et al., with redactions to protect highly confidential and sensitive commercial information.

4. Attached hereto as **Exhibit B** is a true and correct copy of the first attachment to Exhibit A attached hereto, filename “FRE 408 – WGM offer 7.29.2020.DOCX,” with redactions to protect highly confidential and sensitive commercial information.

5. Attached hereto as **Exhibit C** is a true and correct copy of the second attachment to Exhibit A attached hereto, filename “Redline – FRE 408 Sears 7.29.20.docx,” with redactions to protect highly confidential and sensitive commercial information.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 8, 2020
New York, New York

/s/ Jennifer Brooks Crozier
Jennifer Brooks Crozier

Exhibit A

From: [Friedmann, Jared](#)
To: [Crozier, Jennifer Brooks](#)
Subject: FW: FRE 408 -- Sears/Transform Settlement Proposal
Date: Friday, December 4, 2020 5:14:08 PM
Attachments: [FRE 408 -- WGM offer 7.29.20.DOCX](#)
[Redline -- FRE 408 Sears 7.29.20.docx](#)

From: Friedmann, Jared
Sent: Wednesday, July 29, 2020 5:14 PM
To: 'O'Neal, Sean A.' <soneal@cgsh.com>
Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Hi Sean. Hopefully this should help. Here is the proposal we informally discussed on the phone yesterday. Sending now because I would advise my client to accept this, but I do not yet have approval.



Jared R. Friedmann
Partner

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From: O'Neal, Sean A. <soneal@cgsh.com>
Sent: Wednesday, July 29, 2020 3:31 PM
To: Friedmann, Jared <Jared.Friedmann@weil.com>
Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

I am not following the proposal. Would need to see the language.

Sean A. O'Neal
Cleary Gottlieb Steen & Hamilton LLP
Assistant: bamiller@cgsh.com

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soneal@cgsh.com | clearygottlieb.com

From: Friedmann, Jared <Jared.Friedmann@weil.com>

Sent: Wednesday, July 29, 2020 2:20 PM

To: O'Neal, Sean A. <soneal@cgsh.com>

Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>

Subject: Re: FRE 408 -- Sears/Transform Settlement Proposal

Will do. I agree we are otherwise very close. I just want to make sure we are on the same page on this issue before I seek approval.

On Jul 29, 2020, at 12:40 PM, O'Neal, Sean A. <soneal@cgsh.com> wrote:

I'm not following the math. I just adjusted the spreadsheet and let the numbers speak for themselves. If what I sent doesn't sound right to you, it's probably best to respond with a counter offer some kind, including the spreadsheet. It seems like we are getting close.

Sean A. O'Neal

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soneal@cgsh.com | clearygottlieb.com

From: Friedmann, Jared <Jared.Friedmann@weil.com>

Sent: Wednesday, July 29, 2020 12:17 PM

To: O'Neal, Sean A. <soneal@cgsh.com>

Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>

Subject: Re: FRE 408 -- Sears/Transform Settlement Proposal

Thanks, Sean. On 8(b) the concept was that if we don't give you the [REDACTED] claim we don't get the \$375k credit (as we had previously proposed) meaning that we'd end up owing \$375k cash at closing (based on the resulting delta). The way you stated it, you are double-counting the \$375k.

On Jul 29, 2020, at 10:40 AM, O'Neal, Sean A. <soneal@cgsh.com> wrote:

As discussed, please see the attached. Also, I've attached a draft of the vendor release letter.
Subject to client review.

Sean

Sean A. O'Neal

Cleary Gottlieb Steen & Hamilton LLP

Assistant: bamiller@cgsh.com

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soneal@cgsh.com | clearygottlieb.com

From: Friedmann, Jared <Jared.Friedmann@weil.com>

Sent: Sunday, July 26, 2020 8:26 PM

To: O'Neal, Sean A. <soneal@cgsh.com>

Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>

Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Sean,

Please find attached a counterproposal and redline to the last proposal you sent. As you will see we made some significant moves to (i) get this done; and (ii) structure this in a way that does not require either of our cash-strapped clients to write a check. As noted in the draft, this remains subject to our confirming certain facts with Seritage (which we hope to do tomorrow afternoon) and also agreeing on how to best handle the outstanding [REDACTED] issue. Assuming we are otherwise done, we should be able to send a draft settlement agreement tomorrow and we can make ourselves available to talk through any final details. Thank you for your continued cooperation.

Regards,

Jared

<image001.jpg>

Jared R. Friedmann

Partner

Weil, Gotshal & Manges LLP

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+1 212 310 8007 Fax

From: O'Neal, Sean A. <soneal@cgsh.com>

Sent: Friday, July 24, 2020 8:07 PM

To: Friedmann, Jared <Jared.Friedmann@weil.com>
Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Checking in

Sean A. O'Neal

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soneal@cgsh.com | clearygottlieb.com

From: O'Neal, Sean A.
Sent: Friday, July 24, 2020 1:04 PM
To: 'Friedmann, Jared' <Jared.Friedmann@weil.com>
Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Please send them today so we can start reviewing and see if there's any reason to keep talking.

Sean A. O'Neal

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From: Friedmann, Jared <Jared.Friedmann@weil.com>
Sent: Friday, July 24, 2020 12:54 PM
To: O'Neal, Sean A. <soneal@cgsh.com>
Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Understood.

From: O'Neal, Sean A. <soneal@cgsh.com>
Sent: Friday, July 24, 2020 11:42 AM
To: Friedmann, Jared <Jared.Friedmann@weil.com>
Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>

Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

To be clear, we request that you send us your proposed counteroffer, along with the draft settlement agreement documentation.

Sean

Sean A. O'Neal

Cleary Gottlieb Steen & Hamilton LLP

Assistant: bamiller@cgsh.com

One Liberty Plaza, New York NY 10006

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soneal@cgsh.com | clearygottlieb.com

From: O'Neal, Sean A. <soneal@cgsh.com>

Sent: Friday, July 24, 2020 11:34 AM

To: Friedmann, Jared <Jared.Friedmann@weil.com>

Cc: Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>

Subject: Re: FRE 408 -- Sears/Transform Settlement Proposal

Our deal shouldn't be contingent on your deal with Seritage. That was never described or discussed.

Sean A. O'Neal

Cleary Gottlieb Steen & Hamilton LLP

Assistant: bamiller@cgsh.com

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soneal@cgsh.com | clearygottlieb.com

On Jul 24, 2020, at 11:29 AM, Friedmann, Jared <Jared.Friedmann@weil.com> wrote:

Sean,

Ironically having us deal with Seritage directly – which we have been doing – is the sole cause of the unintended delay. We otherwise have a counteroffer ready to go, which we fully believe should wrap this up. The issue is that it is premised on our receipt of the \$1.9 from Seritage so we are attempting to confirm that piece. Trust us, we want to just be done with this as much as you do and, in the interim, have prepared a draft

settlement agreement so that we can expeditiously wrap this up as soon as we get confirmation from Seritage.

Best,
Jared

<image001.jpg>

Jared R. Friedmann
Partner

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New York, NY 10153
jared.friedmann@weil.com
+1 212 310 8828 Direct
+1 917 951 8730 Mobile
+1 212 310 8007 Fax

From: O'Neal, Sean A. <soneal@cgsh.com>
Sent: Friday, July 24, 2020 10:53 AM
To: Friedmann, Jared <Jared.Friedmann@weil.com>; Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>
Cc: Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Can we get a status report and counter offer, if there is one? Things have slowed down to a crawl. The point of having you deal directly with Seritage rather than have us deal with it was to make this process go more quickly and to give you a chance to obtain value directly without our involvement (other than an acknowledgement that we have no claim to the \$1.9 mm you are seeking). Let's keep this moving. Life is too short. Happy to hop on the phone and see if we can get to a conclusion.

Sean

Sean A. O'Neal
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soneal@cgsh.com | clearygottlieb.com

From: Friedmann, Jared <Jared.Friedmann@weil.com>
Sent: Tuesday, July 14, 2020 12:37 PM
To: O'Neal, Sean A. <soneal@cgsh.com>; Giunta, Brian <bgiunta@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>
Cc: Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Hi Sean,

The delay is our efforts to coordinate with Seritage. Hoping to then be back to you with what we hope will be an acceptable final proposal.

Best,
Jared

<image001.jpg>

Jared R. Friedmann
Partner

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New York, NY 10153
jared.friedmann@weil.com
+1 212 310 8828 Direct
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+1 212 310 8007 Fax

From: O'Neal, Sean A. <soneal@cgsh.com>
Sent: Tuesday, July 14, 2020 12:22 PM
To: Giunta, Brian <bgiunta@cgsh.com>; Friedmann, Jared <Jared.Friedmann@weil.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>
Cc: Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>
Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

Checking in here.

Sean A. O'Neal
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soneal@cgsh.com | clearygottlieb.com

From: Giunta, Brian <bgiunta@cgsh.com>

Sent: Friday, July 10, 2020 7:14 PM

To: Friedmann, Jared <Jared.Friedmann@weil.com>; O'Neal, Sean A. <soneal@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>

Cc: Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks <Jennifer.Crozier@weil.com>

Subject: RE: FRE 408 -- Sears/Transform Settlement Proposal

SUBJECT TO FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear all:

Transforms' counter-offer is set forth below. Package deal.

1. Altaquip and Rego Park: Agree to your proposal. Debtors to own and litigate claims. Transform will provide legal assistance at rate of \$400/hr. Transform's post-closing costs (\$65k for Altaquip; \$141k for Rego Park) will be reimbursed as follows:
 - a. For Altaquip, if attorneys' fees are recovered, Transform receives the first \$65k of attorneys' fees; if attorneys' fees are not recovered, Transform receives \$65k from the recovery after Debtors receive the first \$ [REDACTED] (i.e., Transform receives dollars \$ [REDACTED]).
 - b. For Rego Park, Transform receives \$141k from the recovery after Debtors receive the first \$ [REDACTED] (i.e., Transform receives dollars \$ [REDACTED]).
2. India/Mexico Capital Gains Taxes: Transform will pay India tax (~\$280k) and agrees to split costs on Mexico tax (\$720k/2 = \$360k). India equity to be delivered to Transform upon confirmation that India tax has been paid.
3. Mexico Dividend: Transform to get right to dividend (\$370k).
4. Seritage Receivables/Reimbursement: Transform agrees that it will not seek payment from Seritage on account of \$1.9m from Seritage receivables. Debtors to pursue Seritage directly.
5. Vernon Warehouse Rent: Debtors agree to drop claim.
6. Estate Name-Change: Transform pays \$7,100. Deadline extended to Effective Date of Plan.
7. TSA : Debtors agree to pay Transform \$1m for services rendered. For services going forward, Debtors will pay based on rates set forth in the Excel spreadsheet sent by Weil to Cleary on 7/7/20. Transform to invoice Debtors on a monthly basis, and Debtors to pay within 21 days of receipt of invoice.
8. Litigation Insurance Claims. Agreed on allocation of undisputed claims per prior discussions. For still disputed claims: (i) Transform keeps the [REDACTED]

[REDACTED] claim (\$375k), (ii) Transform owns [REDACTED], recoveries to be split 50/50 after payment of Transform's legal fees and expenses; and (iii) Debtors get the 5 other disputed claims. We need clarification on what you mean that the \$375k [REDACTED] claim will be treated as a cash payment by Debtors; that point is not agreed.

9. KCD – Lurking IP: Debtors agree to not object to transfer.
10. Sedgwick: Debtors agree to pay \$61k for payment made after settlement; no back-up necessary if no back-up for BPP Taxes.
11. Sears Israel: Transform pays Debtors \$200k of the \$700k+. We've moved up by another \$100k solely to get this done. It's not Transform's obligation.
12. Business Personal Property Taxes: Transform pays \$125k of the \$150k, no backup necessary if no backup for BPP Taxes.
13. Vendor Claims: Transform to pay Kellermeyer, Channel Advisors and ARS. [REDACTED]
[REDACTED]
14. Specified Receivables: Agree to work out some kind of blanket release. Transform to draft form letter which will include Frigidaire, L'Oreal and Sealy plus automatic release for other receivables. Estates to deliver executed release letters for three previously mentioned claims, plus a blanket release, upon execution of the settlement agreement.

Best,

Brian Giunta
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Assistant: chphillips@cgsh.com
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T: +1 212 225 2342
bgiunta@cgsh.com | clearygottlieb.com

From: Friedmann, Jared [<mailto:Jared.Friedmann@weil.com>]
Sent: Friday, July 10, 2020 1:42 PM
To: O'Neal, Sean A. <soneal@cgsh.com>; Barefoot, Luke A. <barefoot@cgsh.com>;
Giunta, Brian <bgiunta@cgsh.com>
Cc: Marcus, Jacqueline <jacqueline.marcus@weil.com>; Crozier, Jennifer Brooks
<Jennifer.Crozier@weil.com>
Subject: FRE 408 -- Sears/Transform Settlement Proposal

SUBJECT TO FRE 408
CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear all:

Sears's counter-offer is set forth below. As you will see, we made some very significant moves to get this done, but it pretty much puts us up against the wall. Package deal.

1. Altaquip and Rego Park: Debtors to own and litigate claims. Transform will provide legal assistance at rate of \$400/hr. Transform's post-closing costs (\$65k for Altaquip; \$141k for Rego Park) will be reimbursed as follows:
 - a. For Altaquip, if attorneys' fees are recovered, Transform receives the first \$65k of attorneys' fees; if attorneys' fees are not recovered, Transform receives \$65k from the recovery after Debtors receive the first \$ [REDACTED] (i.e., Transform receives dollars \$ [REDACTED]).
 - b. For Rego Park, Transform receives \$141k from the recovery after Debtors receive the first \$ [REDACTED] (i.e., Transform receives dollars \$ [REDACTED]).
2. India/Mexico Capital Gains Taxes: Transform will pay India tax (~\$280k) and agrees to split costs on Mexico tax (\$720k/2 = \$360k). India equity to be delivered to Transform upon confirmation that India tax has been paid.
3. Mexico Dividend: Transform to get right to dividend (\$370k).
4. Seritage Receivables/Reimbursement: Transform agrees that it will not seek payment from Seritage on account of \$1.9m from Seritage receivables. Debtors to pursue Seritage directly. [Note: we are speaking to Seritage's counsel on Monday; we may need Transform to sign something agreeing that these funds belong to the Estate.]
5. Vernon Warehouse Rent: Debtors agree to drop claim.
6. Estate Name-Change: Transform pays \$7,100. Deadline extended to Effective Date of Plan.
7. TSA : Debtors agree to pay Transform \$1m for services rendered. For services going forward, Debtors will pay based on rates set forth in the Excel spreadsheet sent by Weil to Cleary on 7/7/20. Transform to invoice Debtors on a monthly basis, and Debtors to pay within 21 days of receipt of invoice.
8. Litigation Insurance Claims. Agreed on allocation of undisputed claims per prior discussions. For still disputed claims: (i) Transform keeps the [REDACTED] claim (\$375k) provided that for purposes of this settlement agreement only, the \$375,000 value of that [REDACTED] claim will be treated as a cash payment of that amount by Debtors to Transform; and (ii) Debtors get the 6 other disputed claims, including [REDACTED].

9. KCD – Lurking IP: Debtors agree to not object to transfer.
10. Sedgwick: Debtors agree to pay \$61k for payment made after settlement; no back-up necessary if no back-up for BPP Taxes.
11. Sears Israel: Transform pays Debtors \$350k of the \$700k+.
12. Business Personal Property Taxes: Transform pays \$125k of the \$150k, no backup necessary if no backup for BPP Taxes.
13. Vendor Claims: Transform to pay Kellermeier, Channel Advisors and ARS. [REDACTED]
[REDACTED]
14. Specified Receivables: Agree to work out some kind of blanket release. Transform to draft form letter which will include Frigidaire, L'Oreal and Sealy plus automatic release for other receivables. Estates to deliver executed release letters for three previously mentioned claims, plus a blanket release, upon execution of the settlement agreement.

Please let us know if you have any questions or would like to discuss. As noted in my prior email, once we have your sign-off on a deal, we are happy to take the first crack at drafting an agreement.

Best,
Jared

<image001.jpg>

Jared R. Friedmann
Partner

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<402286625_1(Change-Pro Redline - FRE 408 -- Estate offer 7.26.20-402242645-v3 and FRE 408 -- Transform offer 7.28.20-402242645-v4).DOCX>
<402242824_2(Letter and Release re_ Specified Receivables (CGSH 7.27.20)).DOCX>
<402242645_4(FRE 408 -- Transform offer 7.28.20).DOCX>

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Exhibit B

SUBJECT TO FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear all:

Debtors' counter-offer is set forth below. Package deal.

1. Altaquip and Rego Park: Debtors to own and litigate claims. Transform will provide legal assistance at rate of \$400/hr. Transform's post-closing costs (\$65k for Altaquip; \$141k for Rego Park) will be reimbursed as follows:
 - a. For Altaquip, if attorneys' fees are recovered, Transform receives the first \$65k of attorneys' fees; if attorneys' fees are not recovered, Transform receives \$65k from the recovery after Debtors receive the first \$[REDACTED] (i.e., Transform receives dollars \$[REDACTED]).
 - b. For Rego Park, Transform receives \$141k from the recovery after Debtors receive the first \$[REDACTED] (i.e., Transform receives dollars \$[REDACTED]).
2. India/Mexico Capital Gains Taxes: Transform will pay India tax (~\$280k) and agrees to split costs on Mexico tax (\$720k/2 = \$360k). India equity to be delivered to Transform upon confirmation that India tax has been paid.
3. Mexico Dividend: Transform to get right to dividend (\$370k).
4. Seritage Receivables/Reimbursement: Transform agrees that it will not seek payment from Seritage on account of \$1.9m from Seritage receivables. Debtors to pursue Seritage directly. Transform to agree that it has no rights to \$1.9m claim asserted by Debtors (needs to be specifically described).]
5. Vernon Warehouse Rent: Debtors agree to drop claim.
6. Estate Name-Change: Transform pays \$7,100. Deadline extended to Effective Date of Plan.
7. TSA : Debtors agree to pay Transform \$1m for services rendered. For services going forward, Debtors will pay based on rates set forth in the Excel spreadsheet sent by Weil to Cleary on 7/7/20. Transform to invoice Debtors on a monthly basis, and Debtors to pay within 21 days of receipt of invoice.
8. Litigation Insurance Claims. Agreed on allocation of undisputed claims per prior discussions. For still disputed claims Transform to select one of two options:

Option A: Transform gets the [REDACTED] claim (\$375k); provided that for purposes of this settlement only, the \$375,000 value of the [REDACTED] claim will be treated as a cash payment (meaning that it offsets \$375k against the \$1m Debtors agree

to pay Transform for services rendered in para 7 above); and (ii) Debtors get the 6 other disputed claims.

Option B: Debtors get all 7 disputed claims (including the [REDACTED]), which would result in Debtors having to make a cash payment at the close of this settlement as depicted in the chart below.

9. KCD – Lurking IP: Debtors agree to not object to transfer.
10. Sedgwick: Debtors agree to pay \$61k for payment made after settlement; no back-up necessary if no back-up for BPP Taxes.
11. Sears Israel: Transform pays Debtors \$240k of the \$700k+. As part of the package deal, we'll agree to eat the rest of this to get it done and only increased by the amount necessary to be able to have neither party write a check as part of this settlement agreement (see chart below).
12. Business Personal Property Taxes: Transform pays \$125k of the \$150k, no backup necessary if no backup for BPP Taxes.
13. Vendor Claims: Transform to pay Kellermeyer, Channel Advisors and ARS. [REDACTED]
[REDACTED]
14. Specified Receivables: Agree to work out some kind of blanket release. Transform to draft form letter which will include Frigidaire, L'Oreal and Sealy plus automatic release for other receivables. Estates to deliver executed release letters for three previously mentioned claims, plus a blanket release, upon execution of the settlement agreement.

SUMMARY OF PAYMENTS

	Option A	Option B	
Transform to pay Sears	\$358,000.00	\$358,000.00	1/2 Mexico Tax
	\$240,000.00	\$240,000.00	Sears Israel
	\$125,000.00	\$125,000.00	BPP Tax
Total	\$723,000.00	\$723,000.00	
Sears pay Transform	\$61,000.00	\$61,000.00	Sedwick
	\$1,036,168.00	\$1,036,168.00	TSA
	(\$375,000.00)		offset
Total	\$722,168.00	\$1,097,168.00	
<i>Delta</i>	(\$832.00)	\$374,168.00	Amount to be paid to Transform

Exhibit C

~~CGSHWGM~~ DRAFT 7/2829/20

SUBJECT TO FRE 408

CONFIDENTIAL SETTLEMENT COMMUNICATION

Dear all:

~~Transform's Debtors'~~ counter-offer is set forth below. Package deal.

1. Altaquip and Rego Park: Debtors to own and litigate claims. Transform will provide legal assistance at rate of \$400/hr. Transform's post-closing costs (\$65k for Altaquip; \$141k for Rego Park) will be reimbursed as follows:
 - a. For Altaquip, if attorneys' fees are recovered, Transform receives the first \$65k of attorneys' fees; if attorneys' fees are not recovered, Transform receives \$65k from the recovery after Debtors receive the first \$ [REDACTED] (i.e., Transform receives dollars \$ [REDACTED]).
 - b. For Rego Park, Transform receives \$141k from the recovery after Debtors receive the first \$ [REDACTED] (i.e., Transform receives dollars \$ [REDACTED]).
2. India/Mexico Capital Gains Taxes: Transform will pay India tax (~\$280k) and agrees to split costs on Mexico tax (\$720k/2 = \$360k). India equity to be delivered to Transform upon confirmation that India tax has been paid.
3. Mexico Dividend: Transform to get right to dividend (\$370k).
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5. Vernon Warehouse Rent: Debtors agree to drop claim.
6. Estate Name-Change: Transform pays \$7,100. Deadline extended to Effective Date of Plan.
7. TSA : Debtors agree to pay Transform \$1m for services rendered. For services going forward, Debtors will pay based on rates set forth in the Excel spreadsheet sent by Weil to Cleary on 7/7/20. Transform to invoice Debtors on a monthly basis, and Debtors to pay within 21 days of receipt of invoice.
8. Litigation Insurance Claims. Agreed on allocation of undisputed claims per prior discussions. For still disputed claims ~~Debtors-Transform~~ to select one of two options:

Option A: Transform ~~keepsgets~~ the [REDACTED] claim (\$375k) ~~and the [REDACTED] claim (\$1m)~~; provided that for purposes of this settlement only, the \$375,000 value of the [REDACTED] claim will be treated as a cash payment (meaning that it offsets \$375k

~~[AM_ACTIVE_402242645_4]~~

against the \$1m Debtors agree to pay Transform for services rendered in para 7 above); and (ii) Debtors get the 56 other disputed claims.

Option B: Debtors ~~keep~~ get all 7 disputed claims (including the [REDACTED] claim (\$375k) and), which would result in Debtors having to make a cash payment at the [REDACTED] claim (\$1m) close of this settlement as well as depicted in the other 5 disputed claims; Debtors pay Transform \$375k in cash chart below.

9. KCD – Lurking IP: Debtors agree to not object to transfer.
10. Sedgwick: Debtors agree to pay \$61k for payment made after settlement; no back-up necessary if no back-up for BPP Taxes.
11. Sears Israel: Transform pays Debtors \$240k of the \$700k+. As part of the package deal, we'll agree to eat the rest of this to get it done and only increased by the amount necessary to be able to have neither party write a check as part of this settlement agreement (see chart below).
12. Business Personal Property Taxes: Transform pays \$125k of the \$150k, no backup necessary if no backup for BPP Taxes.
13. Vendor Claims: Transform to pay Kellermeyer, Channel Advisors and ARS. [REDACTED].
14. Specified Receivables: Agree to work out some kind of blanket release. Transform to draft form letter which will include Frigidaire, L'Oreal and Sealy plus automatic release for other receivables. Estates to deliver executed release letters for three previously mentioned claims, plus a blanket release, upon execution of the settlement agreement.

SUMMARY OF PAYMENTS

-	Option A	Option B	-
Transform to pay Sears	\$ \$358,000.00	\$ \$358,000.00	1/2 Mexico Tax
	\$ \$240,000.00	\$ \$240,000.00	Sears Israel
	\$ \$125,000.00	\$ \$125,000.00	BPP Tax
Total	\$ \$723,000.00	\$ \$723,000.00	
Sears pay Transform	\$ \$61,000.00	\$ \$61,000.00	Sedwick
	\$ \$1,036,168.00	\$ \$1,036,168.00	TSA
	\$ (\$375,000.00)	\$ 375,000.00	offset/ payment
Total	\$ \$722,168.00	\$ \$1,472,097,168.00	
Delta	\$ (\$832.00)	\$ 749,374,168.00	<u>Amount to be paid to Transform</u>

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